

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

FIDELITY BROKERAGE SERVICES LLC,

Plaintiff,

v.

TIMOTHY HOFFMAN, and  
J.P. MORGAN SECURITIES LLC,

Defendants.

Case No. 1:17-cv-2831

**MOTION FOR TEMPORARY  
RESTRAINING ORDER**

1. The Plaintiff, Fidelity Brokerage Services LLC (“Fidelity”), moves for entry of a Temporary Restraining Order (“TRO”) with notice under Federal Rule of Civil Procedure 65(b).

2. Fidelity has filed a four-count Complaint, which contains claims for misappropriation of trade secrets (federal and state law), breach of contract, and tortious interference with contract. The Complaint arises out of Timothy Hoffman’s (“Hoffman”) and J.P. Morgan Securities LLC’s (“JPMorgan”) impermissible retention of Fidelity’s most valuable confidential client information following Hoffman’s voluntary resignation, as well as Hoffman’s breach of narrowly tailored covenants not to solicit certain Fidelity accounts after his resignation.

3. Fidelity has demonstrated, and will further demonstrate for the Court: (1) that it has established a likelihood of success on its claims in the Complaint; (2) that it has no adequate remedy at law; (3) that it may be irreparably harmed absent injunctive relief; and (4) that public interest favors injunctive relief. *Abbott Labs v. Mead Johnson & Co.*, 971 F.2d 6, 11 (7th Cir. 1992).

4. Fidelity is providing notice to Hoffman and JPMorgan of this motion. In particular, on the date of filing, Fidelity sent to Hoffman and JPMorgan a copy of all filings via

overnight delivery. On the same date, Fidelity also sent copies of all documents in .pdf format to Hoffman and JPMorgan via email.

5. Fidelity requests that the Court set this matter for a hearing on Fidelity's request for a TRO as soon as possible.

6. Fidelity further requests that the Court enter a TRO substantially in accordance with the draft order submitted to the Court as *Exhibit A*. The proposed submission contains the precise relief Fidelity seeks in order to enforce specific contractual covenants and protect its trade secrets.

7. If this Court determines that, under Rule 65(b)(2), a TRO issued *with notice* can last no longer than 14 days, then Fidelity requests that the Court set this matter for preliminary injunction hearing 14 days after entry of a TRO.

8. Additionally, all parties are subject to the arbitration rules and regulations of the Financial Industry Regulatory Authority ("FINRA"). FINRA Rule 13200. Accordingly, concurrently with filing of this Motion for TRO, Fidelity is filing a Statement of Claim with FINRA seeking binding arbitration of this dispute pursuant to Rule 13804(a)(2).

9. Although the merits of this case will likely be resolved in arbitration before FINRA, pursuant to FINRA Rule 13804, Fidelity is required to seek and obtain immediate injunctive relief in a court of competent jurisdiction before an expedited FINRA arbitration is permitted to proceed. Once a TRO is issued by this Court, expedited arbitration will be scheduled with FINRA within fifteen (15) days of the entry of the TRO.

10. If no TRO is issued, however, this case cannot be heard by FINRA on an expedited basis and, instead, will be assigned to a standard-track arbitration, which could delay a hearing on the merits for a year or more. Immediate injunctive relief is therefore requested to

preserve the *status quo* until an expedited arbitration hearing before FINRA can occur.

11. Finally, Fidelity submits a Memorandum of Law with this motion outlining the points and authorities upon which it relies for immediate relief.

April 14, 2017

Respectfully submitted,

FIDELITY BROKERAGE SERVICES LLC,

By its attorneys,

/s/Kenneth J. Vanko

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*Pro Hac Vice Pending*

**CERTIFICATE OF SERVICE**

I, Kenneth J. Vanko, an attorney, hereby certify that on April 14, 2017, I caused a copy of the foregoing Motion for Temporary Restraining Order to be filed with the Clerk of the Court using the CM/ECF system, which will send an electronic copy of the foregoing to counsel of record and constitutes service under Federal Rule of Civil Procedure 5(b)(2)(D) pursuant to Local Rule 5.9 of the Northern District of Illinois.

/s/Kenneth J. Vanko